

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>IN RE:</b>	) <b>Bankruptcy Case No. 23-22293-CMB</b>
Gabriel S. Fontana,	)
<b>Debtor,</b>	) <b>Chapter 11</b>
	)
United States Trustee,	) <b>Hearing Date:</b> March 26, 2024 @ 1:30 p.m.
<b>Movant,</b>	)
<b>v.</b>	) <b>Responses Due:</b> March 18, 2024
Gabriel S. Fontana,	)
<b>Respondent.</b>	) <b>Document No.</b>

**RESPONSE IN OPPOSITION TO MOTION OF THE UNITED STATES TRUSTEE TO  
DISMISS OR CONVERT DEBTOR'S CHAPTER 11 CASE PURSUANT TO 11 U.S.C. §  
1112(b)**

**AND NOW** comes the Debtor and Debtor-in-Possession, Gabriel S. Fontana, by and through her counsel of record, Calaiaro Valencik, and presents the following Response in Opposition to the *Motion of the United States Trustee to Dismiss or Convert Debtor's Chapter 11 Case Pursuant to 11 U.S.C. § 1112(b)*:

1. Admitted.
2. Admitted.
3. It is admitted that the United States Trustee relies upon the statutes and rules set forth in this paragraph. It is denied that the requested relief is appropriate.
4. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, the Debtor does not contest the United States Trustee's standing on this matter.
5. Admitted.
6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted.

11. It is admitted that the Debtor requested extensions of time to file a Plan of Reorganization.

12. Admitted.

13. It is admitted that the Debtor has not filed a Plan.

14. The Debtor is current on his Monthly Operating Reports.

15. Denied. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

16. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

17. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

18. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

19. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

20. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

21. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been

deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

22. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

23. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

24. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

25. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There

is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

26. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

27. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

28. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

29. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy

Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

30. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

31. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

32. The Debtor is current with his Monthly Operating Reports.

33. Denied that there is cause exists to dismiss or convert.

34. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Debtor has been

deficient, the Debtor will be current with any outstanding matters prior to the hearing on this Motion.

35. This Paragraph contains conclusions of law for which no response is required under the Federal Rules of Civil Procedure or Federal Rules of Bankruptcy Procedure. To the extent that a Response is necessary, this Paragraph is denied. There is no cause to dismiss or convert this case. To the extent that the Court is considering dismissal or conversion, dismissal is the more appropriate remedy since the lack of meaningful distribution to general unsecured creditors.

36. Denied.

37. The Debtor reserves all rights, remedies, and obligations to complement, supplement, augment, alter and/or modify this motion, and to assert such other grounds as may become apparent upon further discovery.

**WHEREFORE**, the Debtor respectfully requests that this Honorable Court deny the Motion.

**Respectfully Submitted,**

**DATED:** March 18, 2024

**CALAIARO VALENCIK**

**BY:** /s/ Andrew K. Pratt

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